

Chief Executive's Report

to the Elected Members on submissions received on
Public Rights of Way
as included in the
Draft Clare County Development Plan 2017-2023

Part III of III

19th May 2016



Prepared in accordance with Section 12(4)(b) of the
Planning and Development Act 2000, as amended

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Section 1 Introduction

Section 14(1) of the Planning and Development Act, 2000 (as amended) requires *"where a planning authority proposes to include, for the first time, a provision in a development plan relating to the preservation of a specific public right of way, it shall serve notice (which shall include particulars of the provision and a map indicating the right of way) of its intention to do so on any owner and occupier of the land over which the right of way exists"*.

Section 10(2)(o) of the Act states that *"the preservation of public rights of way which give access to seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility, which public rights of way shall be identified both by marking them on at least one of the maps forming part of the development plan and by indicating their location on a list appended to the development plan"*.

The following Public Rights of Way are proposed in Appendix 6 of Volume 1 of the Draft Clare County Development Plan 2017-2023 which was on public display for a period of 10 weeks from the 8th December 2015 to the 29th February 2016 (both dates inclusive).

- Turret Lane, Kilrush – connecting Grace Street and Vandeleur Demesne
- The Rocky Road, Ennis
- Kilquane, Parteen – from School Road, Parteen to Kilquane Cemetery

In accordance with the procedures set out in the Act, the owners/occupiers of the land(s) over which the rights of way above exist, received written notification regarding the proposed inclusion of the provision relating to the preservation of the public rights of way on their land(s).

In total, 377 no. submissions were received regarding the proposed preservation of public rights of way, including 218 no. submissions relating to a request for an additional right of way at Moneen Graveyard in Meelick. At this stage, and in my role as Chief Executive, I would like to thank all of those who took the time to make a submission or observation. All submissions will be taken into consideration in the on-going preparation of the Clare County Development Plan 2017-2023 and the preservation of public rights of way.

This report lists those who made submissions to Appendix 6 of Volume 1 of the Draft Clare County Development Plan 2017-2023 and summarises the issues raised. I then set out my response to each of the issues raised and make a recommendation in relation to the preservation of the rights of way in the Clare County Development Plan 2017-2023.

This report is submitted to the Elected Members of Clare County Council on 19th May 2016.

Section 2 Legislative Requirements

Section 12(4) of the Planning and Development Act, 2000 (as amended) sets out the statutory requirements that I am obliged to adhere to in the preparation of this Chief Executive's Report and on the on-going preparation of the Clare County Development Plan 2017-2023. The Chief Executive's Report must list the persons or bodies who made submissions, summarise the issues raised or observations received and must give my response to these matters having regard to the proper planning and sustainable development of the area, the statutory obligations of any local authority in the area, any relevant policies or objectives of the government or of any Government Minister and any observations that have been made by the Minister for Arts, Heritage and the Gaeltacht.

Under Section 12(5) of the Planning and Development Act, 2000 (as amended), following receipt of this document, you the Elected Members, are required to consider the Draft Development Plan and the Chief Executive's report. Your consideration of these matters must be completed within 12 weeks of the submission of this report on 19th May 2016.

Chief Executive's Report on Submissions on the proposed preservation of Public Rights of Way

This Chief Executive's Report herein submitted to you, the Elected Members, complies with the requirement of section 12(4) of the Planning and Development Act, 2000 (as amended).

Section 3 Next Stage

In accordance with Section 12(5) of the Planning and Development Act, 2000 (as amended), following receipt of this document you, the Elected Members must consider the Draft Development Plan and this Chief Executive's Report. Following this period of consideration, where it appears to the Members of Clare County Council that the draft plan should be accepted or amended, you may, by resolution, accept or amend the Draft Clare County Development Plan 2017-2023.

Section 4 Summary of Submissions made and Chief Executive's Response to the Issues Raised

Introduction

On 8th December 2015 the Planning Authority put on display the Draft Clare County Development Plan 2017-2023, comprising of 10 Volumes. The process commenced with a notice in the local newspaper and the commencement of a 10 week public consultation, having regard to the provisions of Section 12 of the Planning and Development Act, 2000 (as amended).

In all 377 no. formal written submissions were received by Clare County Council within the statutory timeframe specifically in relation to Rights of Way.

In the following part of Section 4, I have provided a summary of the issues raised in each of the 377 formal written submissions. In addition, for each individual submission I have put forward my response to the issues raised, taking account of the proper planning and sustainable development of the area, of any direction from the Members of the Planning Authority arising from the Chief Executive's Report to the Members at 'pre-draft' public consultation stage in accordance with Section 11(4) of the Act, the statutory obligations of any local authority in the area, and any relevant policies or objectives for the time being of Government or of any Minister of the Government.

Accordingly, please find below a summary of the issues raised in each submission together with my response and recommendations.

Ref. 001 Kevin and Mary Farry

Summary of the Issues Raised in the Submission

This submission responds to a Notice served under Section 14(1) of the Planning & Development Act 2000 as amended, which was issued to the landowner's above on 09/12/2015 and which proposes the preservation of a right of way over their lands at Newhall, Ennis. The landowner's advise that they will strongly resist the proposal to declare the route a public right of way in the County Development Plan 2017-2023.

The landowner's state that there was never a right of way over these lands. They advise that there is a burial ground and national monument on their lands to which they have had to restrict access to the public on account of anti-social behaviour, uncontrolled dogs, dumping and trespassing onto their private property.

Mr. Farry has also sought legal opinion on this matter and advises that he will appeal any attempts to the proposal.

Chief Executive's Response

I wish to thank the authors for their submission and I acknowledge their concerns regarding the designation. I am aware that the legislation and case law in relation to public rights of way clearly states that:

- There must be actual dedication by the landowner to the public use of the route in question or there must be sufficient evidence to show that such a dedication was intended;
- A public right of way must be open to the public and not just a class of persons or limited number of the public;
- A public right of way must start in and finish in a public area (i.e. it cannot terminate in private property);
- A public right of way cannot be obtained by stealth, by force or by licence i.e. it must be a route to which the public have a right of access as a right not by way of permission.

Based on the foregoing, and having regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the preservation of a designated public right of way at Newhall, Ennis, although public access is permitted to Killone Abbey and Graveyard.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** a public right of way at Newhall, Ennis.

Ref. 002 Aisling Meehan Solicitor on behalf of Rhona Geoghegan, Deirdre Geoghegan and Niall Geoghegan

Summary of the Issues Raised in the Submission

This submission responds to the 3 no. separate Notices served under Section 14(1) of the Planning & Development Act 2000 as amended, which were issued to each of the landowner's above on 09/12/2015 and which proposes the preservation of a right of way over their lands at Ballybeg, Ennis.

The author advises that she is instructed that the route in question is in fact a Pilgrim's Path and not a public right of way nor is there any evidence of an express grant or reservation or implied by inferred dedication. The author outlines the legal distinction between the aforementioned and notes there are private easements only registered on the landowners folios. The author also quotes legal cases and decisions in her submission regarding public rights of way.

She advises that her clients are satisfied to allow the proposed route to continue as a customary right across their land but subject to their right to revoke their permissive tolerance. It is also submitted by the author that Killone Abbey is accessible by way of an alternative route on which there is no restriction on the rights of the wider public to access the particular site.

Chief Executive's Response

I wish to thank the author for her submission and I am aware that the legislation and case law in relation to public rights of way clearly states that:

- There must be actual dedication by the landowner to the public use of the route in question or there must be sufficient evidence to show that such a dedication was intended;
- A public right of way must be open to the public and not just a class of persons or limited number of the public;
- A public right of way must start in and finish in a public area (i.e. it cannot terminate in private property);
- A public right of way cannot be obtained by stealth, by force or by licence i.e. it must be a route to which the public have a right of access as a right not by way of permission.

Based on the foregoing, and having regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the preservation of a designated public right of way at Ballybeg, Ennis, although public access is permitted.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** the proposed public right of way at Ballybeg, Ennis from points O-T inclusive on the above landowner's property.

Ref. 003 Brian D. Casey Solicitor on behalf of Hilltop Developments Ltd.

Summary of the Issues Raised in the Submission

This submission responds to the 2 no. separate Notices served under Section 14(1) of the Planning & Development Act 2000 as amended, which were issued to the landowner's above and also to Thomas and Mairead Connellan, Directors of the Company on 09/12/2015 and which proposes the preservation of a right of way over their lands at Clonroad More, Cahircalla Beg and Cahircella More, Ennis.

The author advises that his client accepts that there is an existing right of way at the location identified, however, this is a right of way for pedestrian use/foot-passengers only. The proposed width of 3.00 metres indicated in the Notice is excessive and does not reflect the underlying nature of the right of way as a right of passage for pedestrians and the author submits that the width of the right of way being so preserved must be reduced to 1 metre accordingly.

The author also refers to an information sign and large engraved rock allegedly placed by Clare County Council on his clients land without the consent of his client and submits that this amounts to an act of trespass and requests that same are removed forthwith.

Chief Executive's Response

I wish to thank the author for his submission. Firstly, in relation to the width of the right of way, this has been recently measured by Council officials and it is noted that an exact width of the path could not be established as there are no demarcation markers to govern accurate measurements. A random sample of 4 no. measurements along the first 100 metres of the path/track all measure in excess of 1.5 metres.

In response to the matter of the sign and rock, it is noted that these have been in situ since 2002 and I note the elapsed time period of 14 years.

Chief Executive's Recommendation

I recommend that Clare County Council **does preserve** a public right of way at Clonroad More, Cahircalla Beg and Cahircella More, Ennis from points A-B on the landowners property.

Ref. 004 Noel Coughlan

Summary of the Issues Raised in the Submission

The author objects to the proposed establishment of a right of way along the Pilgrim's Path through Ballybeg to Killone Abbey and submits that the change would be an intolerable imposition on the local residents, some of whom are elderly and subjected to antisocial behaviour and burglaries. He feels that the establishment of a right of way will exacerbate these issues along with the problem of illegal dumping, and the threat to local livestock from dogs left free to roam the area by their owners.

The author also submits that there is an existing, well established route to the abbey via Ballyea, which could be used.

Chief Executive's Response

I wish to thank the author for his submission. Having regard to the legislation and case law in relation to public rights of way as outlined in previous submissions, and having further regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the preservation of a designated public right of way at Ballybeg, Ennis, although public access is permitted.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** a public right of way at Ballybeg, Ennis.

Ref. 005 Clair McLoughlin

Summary of the Issues Raised in the Submission

The author objects to the proposed establishment of a right of way along the Pilgrim's Path through Ballybeg to Killone Abbey and submits that the change would be an intolerable imposition on the local residents, some of whom are elderly and subjected to antisocial behaviour and burglaries. She feels that the establishment of a right of way will exacerbate these issues along with the problem of illegal dumping, and the threat to local livestock from dogs left free to roam the area by their owners.

The author also submits that there is an existing, well established route to the abbey via Ballyea, which could be used.

Chief Executive's Response

I wish to thank the author for her submission. Having regard to the legislation and case law in relation to public rights of way as outlined in previous submissions, and having further regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the preservation of a designated public right of way at Ballybeg, Ennis, although public access is permitted.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** a public right of way at Ballybeg, Ennis.

Ref. 006 Patricia McLoughlin

Summary of the Issues Raised in the Submission

The author objects to the proposed establishment of a right of way along the Pilgrim's Path through Ballybeg to Killone Abbey and submits that the change would be an intolerable imposition on the local residents, some of whom are elderly and subjected to antisocial behaviour and burglaries. She feels that the establishment of a right of way will exacerbate these issues along with the problem of illegal dumping, and the threat to local livestock from dogs left free to roam the area by their owners.

The author also submits that there is an existing, well established route to the abbey via Ballyea, which could be used.

Chief Executive's Response

I wish to thank the author for her submission. Having regard to the legislation and case law in relation to public rights of way as outlined in previous submissions, and having further regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the preservation of a designated public right of way at Ballybeg, Ennis, although public access is permitted.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** a public right of way at Ballybeg, Ennis.

Ref. 007 Emily Walker Casey

Summary of the Issues Raised in the Submission

The author objects to the proposed establishment of a right of way along the Pilgrim's Path through Ballybeg to Killone Abbey and submits that the change would be an intolerable imposition on the local residents, some of whom are elderly and subjected to antisocial behaviour and burglaries. She feels that the establishment of a right of way will exacerbate these issues along with the problem of illegal dumping, and the threat to local livestock from dogs left free to roam the area by their owners.

The author also submits that there is an existing, well established route to the abbey via Ballyea, which could be used.

Chief Executive's Response

I wish to thank the author for her submission. Having regard to the legislation and case law in relation to public rights of way as outlined in previous submissions, and having further regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the preservation of a designated public right of way at Ballybeg, Ennis, although public access is permitted.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** a public right of way at Ballybeg, Ennis.

Ref. 008 Manahan Planners on behalf of Seamus Madden and Limerick Blow Moulding Ltd

Summary of the Issues Raised in the Submission

This submission responds to a Notice served under Section 14(1) of the Planning & Development Act 2000 as amended, which was issued to the landowner above on 09/12/2015 and which proposes the preservation of a right of way over their lands at Kilquane Townland, Parteen. The landowner objects to the inclusion of this matter in the County Development Plan 2017-2023.

The author and his client are of the view that the right of way over this agricultural holding to a graveyard is not a public right of way but rather an access by license of the owner restricted to certain classes of persons.

The author submits that the planning authority is in error by seeking to "preserve" an existing public right of way in circumstances where a public right of way does not exist.

The author also submits legal opinion from Senior Counsel on behalf of his client to support his submission.

Chief Executive's Response

I wish to thank the author for his submission and I am aware that the legislation and case law in relation to public rights of way clearly states that:

- There must be actual dedication by the landowner to the public use of the route in question or there must be sufficient evidence to show that such a dedication was intended;
- A public right of way must be open to the public and not just a class of persons or limited number of the public;
- A public right of way must start in and finish in a public area (i.e. it cannot terminate in private property);
- A public right of way cannot be obtained by stealth, by force or by licence i.e. it must be a route to which the public have a right of access as a right not by way of permission.

Based on the foregoing, and having regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the preservation of a designated public right of way at Kilquane, although public access to Kilquane Graveyard is permitted.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** a public right of way at Kilquane, Parteen.

Ref. 009 Larry Brennan

Summary of the Issues Raised in the Submission

This submission relates to rights of ways, graveyards and other historical monuments. The author submits that a review is required, including mapping, of all rights of way within the County Development Plan area. He is of the opinion that the only way to protect some of the protected structures is for the general public to have access to them and feels that it is vital for the general public to access primary sources as much as possible.

He feels a need for an up to date database /survey which would serve to provide a clear picture of the state of rights of way within graveyards in the County and would also give an indication of rules and regulations associated with access to protected structures.

The author mentions a 2011 Graveyard Survey in County Clare and also an example of restricted access to graveyard at Killone Abbey and Burial Ground.

Chief Executive's Response

I thank Mr. Brennan for his submission and I acknowledge the importance of the issues he has raised.

However, most Protected Structures are private property to which no public access is permitted. If a structure has protected status it does not mean it is accessible to the general public and it is the responsibility of the owner to protect and maintain same.

The legislation and case law in relation to public rights of way clearly states that:

- There must be actual dedication by the landowner to the public use of the route in question or there must be sufficient evidence to show that such a dedication was intended;
- A public right of way must be open to the public and not just a class of persons or limited number of the public;
- A public right of way must start in and finish in a public area (i.e. it cannot terminate in private property);
- A public right of way cannot be obtained by stealth, by force or by licence i.e. it must be a route to which the public have a right of access as a right not by way of permission.

Based on the foregoing, I do not consider the matter of access to graveyards to be an issue to be addressed in the County Development Plan. However, I have referred this submission to the relevant officials in the Community and Tourism Section of the Council for their consideration who deal with the day-to-day operations of many of the graveyards in the County.

Chief Executive's Recommendation

I recommend that no amendments are made to the Draft Clare County Development Plan 2017-2023 on the basis of this submission.

Ref. 10-159 (inclusive) Visitors to the Kilquane Graveyard

10	Bernard McNamara	49	Jean Gale	88	Michael Fahy	127	Thomas Whelan
11	Bridie McNamara	50	Mary Spring	89	Sarah Daly	128	Bridie Buckley
12	Michael Crowe	51	Sharon Slater	90	Carmel O'Connor	129	Donal Whelan
13	Irene Crowe	52	Ronnie O'Connor	91	Mike Howard	130	John Pierce
14	Peggy McNamara	53	Breda Mannix	92	Noelle Howard	131	Mary Nix
15	Tom O'Connor	54	Kay Mannis Ryan	93	Pat O'Connor	132	Kieran Ahern
16	Maureen Flynn	55	Ann Killackey	94	Teresa Concarr	133	Steven Corkery
17	Michael Flynn	56	Catriona McGuire	95	Anne Diegan	134	Nuala Foley
18	Margaret O'Connor	57	Joanne McGuire Berry	96	Gloria Diegan	135	Bridget&Martin O'Neill
19	Joan Cantillon	58	Brigid Kennedy F.M.A	97	Bella Markham	136	Ann Burns
20	Sheila Markham Sims	59	Catherine O'Connor	98	John Costelloe	137	M&T Prenderville
21	Deirdre Markham	60	Kevin&Carmel Neville	99	Denise Lynch	138	Margaret Hickey
22	Theresa Newsome	61	June & Joe Kirwan	100	Jean Hickey	139	Bill Hickey
23	Anthony Newsome	62	John Neville	101	Marie Quinlivan	140	Margaret Harte
24	Deborah Markham	63	Ellen Crotty	102	ClareAnn Hickey	141	James M Hastings
25	Bernadette Graham	64	Catherine Nix	103	Gerard Hickey	142	Mary Carroll
26	Sandra Berty	65	Mary McGuire	104	Ann O'Brien	143	John Hickey
27	Nicholis Markham	66	Maire Ni Fearaile	105	Jean Homes	144	Alan Spring
28	David Markham	67	John Prenderville	106	Emma Hastings	145	T. McInerney Whelan
29	TracyHowardFitzgerald	68	Donal O'Riain	107	DonJoseph Ryan	146	James Pierce
30	Jan O'Sullivan	69	Anthony Ryan	108	J Fairbrother Snr	147	Gerard O'Shea
31	Kitty Terri Garvey	70	Sile Corkery	109	Antoinette Keely	148	Bridie Phillips
32	Mike O'Connor	71	Eddie&BridgeHannon	110	Maureen Bradley	149	Kathleen O'Shea
33	Thomas Prenderville	72	Evelyn Ryan	111	Denis Madden	150	C&P Fitzpatrick
34	Irene Simon	73	Carrie Lee O'Donovan	112	Nicholas Molloy	151	Patrick J. Costelloe
35	Keith Howard	74	Daniel Corkery	113	Donal Harte	152	Antoinette Keely
36	Derek Spring	75	Marian Fairbrother	114	David Harte	153	B&D Newsome
37	Sr Patricia Prenderville	76	Katie O'Donovan	115	Rowanne Harte	154	Thomas Costelloe
38	John Hogan	77	Kathleen Shine	116	James Hastings	155	Tony O'Shea
39	Nora B O'Dwyer	78	James Fairbrother	117	Catherin O'Brien	156	Deirdre Wright
40	Geraldine Edwards	79	Bernie Spring	118	F O'Callaghan	157	David O'Connor
41	Padraig Hogan	80	Celine Hogan	119	Bébhinn McMahon	158	Shane O'Connor
42	Robert Spring	81	Desmond O'Meara	120	Don Harte	159	Angela O'Connor
43	Amy Mulrennan	82	Sean Prenderville	121	Kitty Hastings		
44	Jennifer Mulrennan	83	Mary Prenderville	122	Noreen Storan		
45	Claire Barry	84	Anna & Jack Daly	123	Clare Hastings		
46	Rosemary O'Meara	85	John Hickey	124	Olive Buckley		
47	Patrick Prenderville	86	B&C Ryan	125	G. Kearney		
48	Tony Markham	87	Michael O'Connor	126	Sarah Hastings		

Summary of the Issues Raised in the Submission

Submission nos. 10-159 inclusive all support the establishment of a public right of way at Kilquane, Parteen from the School Road to Kilquane Graveyard. The author's above all note that previously there was unrestricted access to the graveyard but for the past couple of years, the current landowner has locked the vehicular entrance gate, the key to which has to be obtained from the offices of Limerick Blow Moulding Ltd between 9am and 5pm on Mondays to Fridays only. Alternative arrangements must be made to obtain the key to visit the graveyard outside of these hours. Unrestricted pedestrian access via a narrow gap in a stone wall is still available. On this basis it is submitted by the author's that the establishment of a public right of way is warranted for the following reasons:

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- The restricted access via the stile is not practical for visitors with mobility issues to access the graveyard. It is approximately 1 mile of a walk from the public road into the graveyard which is excessive for those with mobility issues or carrying equipment, wreaths etc to the graveyard. The pedestrian path is also rough and uneven;
- Visitors and especially the elderly are in fear of the livestock on the land en route to the graveyard;
- There is no access via car on weekends or bank holidays as the key is not available unless prior arrangements have been made with the landowner;
- There is a Health and Safety issue in the event of someone getting injured en route or at the graveyard and emergency services cannot access the area if it happens at the weekend;
- Individuals and voluntary groups require open access for maintenance of the graveyard;
- Submission no. 132 submits that Kilquane Graveyard is a heritage site which should be accessible to all.

Chief Executive's Response

I wish to thank all of the author's for their submissions. However, the legislation and case law in relation to public rights of way clearly states that:

- There must be actual dedication by the landowner to the public use of the route in question or there must be sufficient evidence to show that such a dedication was intended;
- A public right of way must be opened to the public and not just a class of persons or limited number of the public;
- A public right of way must start in and finish in a public area (i.e. it cannot terminate in private property);
- A public right of way cannot be obtained by stealth, by force or by licence i.e. it must be a route to which the public have a right of access as a right not by way of permission.

Based on the foregoing, and having regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the preservation of a designated public right of way at Kilquane, although public access to Kilquane Graveyard is permitted.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** a public right of way at Kilquane, Parteen.

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Ref. 160-377 (inclusive) Meelick Graveyards Committee and visitors to the Moneen Graveyard.

160	Bernard McNamara	215	Ann O'Connell	270	Hugh Tuohy	325	Cormac Hyland
161	Valerie O'Brien	216	Hazel O'Shaughnessy	271	Robin O'Connell	326	Jason McMahon
162	James O'Brien	217	Michael Howard	272	Bridget Kelly	327	Carrie Lee O'Donovan
163	Jennifer Kelliher	218	Jackie Cummins	273	Keith Blair	328	Maureen Flynn
164	Gordon O'Brien	219	Sean Collins	274	Paddy Meenaghan	329	Mairead Crowley
165	Eimear Crowe	220	Lisa O'Neill	275	James Culliney	330	Patrick O'Brien
166	Mary Cokkery	221	Orla Blair	276	Enda Lynch	331	Lorraine White Flaherty
167	MaryO'ConnellKnox	222	Rena White	277	Alice Quinn	332	Patrick Lehane
168	Ciara Ryan	223	Olive Mulcahy	278	S.&Y.O'Shaughnessy	333	Dr. Richard Hayes
169	Maura Duffy	224	George White	279	Liam Mann	334	Lauren Quinn
170	Dermot Lavin	225	Thomas White	280	Brendan Corkery	335	Kira Fairbrother
171	Patrick J O'Connell	226	Lisa White	281	David Houlihan	336	Bridget McNamara
172	Billy Mann	227	Sean (John) Frost	282	Ken O'Brien	337	John Hurley
173	Rita Blair	228	Margaret Mann	283	Yvonne Hehir	338	Marie Neville
174	Caroline Hyland	229	Michael Flynn	284	Keith Farrelly	339	Robert Hayes
175	Dale Hyland	230	Declan McNamara	285	Sheila Corkery	340	Philomena McDonnell
176	Margaret Mann Jnr	231	Jackie Quinn	286	Grainne Burns	341	Trevor McNamara
177	Jonathan Fawl	232	Jackqueline Connolly	287	Mary Crowe	342	Declan McInerney
178	Ger Hayes	233	Christy O'Neill	288	Mary & Pa Hayes	343	Adrian O'Connell
179	Jacqueline Hayes	234	Martha McNamara	289	Daniel Corkery	344	Ita Crowe
180	Michael O'Grady	235	Patricia Fairbrother	290	Nuala Cusack	345	Helen McCarthy
181	James Liddane	236	Anthony& Beth Hurley	291	Fearghus Kelleher	346	Seamus Quinn
182	Patrick O'Reilly	237	Patrick Gavin	292	Victoria Crowe	347	Bernadette Fitzgerald
183	Donna White	238	Mary Lawlor	293	Michael Duffy	348	Patrick Ryan
184	Norman Stanley	239	John McInerney	294	Keith Hyland	349	Tina McInerney
185	Patrick Mann	240	Jacqueline Sweeney	295	Maeve Fehilly	350	Frances O'Shaughnessy
186	Al Mulcahy	241	Gavin O'Connell	296	Brendan Walsh	351	Shirley Rea
187	Tara White	242	Tom Cooney	297	Senan McNamara	352	Margaret Shine
188	Leonard White	243	Ann Fairbrother	298	Lourda Lillis	353	Kathleen Hayes
189	T. Fuockowiole	244	Maura McInerney	299	H Crawford McGrath	354	Marian Fairbrother
190	John McNally	245	Donal O'Riain	300	Stephen Hayes	355	Patsy Houlihan
191	Carla White	246	Noreen Houlihan	301	Sarah McMahon	356	Patsy Quinn
192	Sarah Mann	247	Joan O'Reilly	302	Joe Quinn	357	Anne McNamara
193	Michael McNamara	248	Eamonn O'Connor	303	Aoife Quinn	358	Norma Lehane
194	Pat O'Sullivan	249	Michael Crowe	304	Mary Gavin	359	Cathal McMahon
195	Michael McMahon	250	Katie Quinn	305	Majella Barrett	360	Yvonne O'Meara
196	Michael McInerney	251	Irene Crowe	306	Marie Burns	361	PeggyMcNamaraLiddane
197	Laura Corkery	252	Jim Fairbrother	307	Martin Keogh	362	Basil Crowe
198	Sean McNamara	253	James Fairbrother	308	James Cooney	363	Jackie Flynn
199	Aideen Kelleher	254	Peg McCarthy	309	Joan Sexton	364	Gobnait Creedon
200	Patricia O'Connor	255	BernadetteMcDermott	310	P.J. Donnellan	365	Tom Crowe
201	Niall Quinn	256	Maura O'Farrell	311	Therese McNamara	366	Joe Bourke
202	Kay Shine	257	Richard Tobin	312	D. O'Shaughnessy	367	Padraic O'Meara
203	Adette Scannell	258	Jarlath Fahy	313	Fergus Fitzpatrick	368	John McCarthy
204	Darragh Hayes	259	Margaret Burke	314	Christine Hackett	369	Dympna Tobin
205	Paddy McCarthy	260	Brian Mann	315	David McNamara	370	Noelle Howard
206	John McCarthy	261	Karen Fisher	316	Aoife O'Shaughnessy	371	Peg O'Grady
207	MaireadMcNamara	262	Annette Fawl	317	Daniel Lehane	372	Martin Manning
208	John McMahon	263	Mary McNamara	318	Darragh Knox	373	Thomas P. Crawford
209	Nuala Meenaghan	264	C. & J. Murphy	319	Frank McDermott	374	Patrick Cooney
210	Anne Wallace	265	Kay O'Brien	320	Pat Kelly	375	Michael Shine
211	John Liddane	266	Eileen O'Sullivan	321	Flan McInerney	376	Joe Quinn
212	Marie Keogh	267	Darren&Danielle Lyons	322	Regina Tobin	377	Christine Fisher

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213	Sinead Quinn	268	Noreen Farrelly	323	Mary O'Brien		
214	ThomasMcDonnell	269	Nuala O'Neill	324	Joe Flaherty		

Summary of the Issues Raised in the Submission

Submission nos. 160-377 inclusive all relate to a request to have a public right of way made at Moneen, Meelick specifically on the ancient stone laneway leading from the main road as far as the graveyard entrance gate which the authors believe is warranted for the following reasons:

- The laneway across privately owned lands has been used by the people of Moneen parish for more than 260 years, to access the burial ground;
- The graveyard is landlocked by farmland and the stone laneway is the only access to it;
- The author alleges that the landowner has stated in written correspondence to the Meelick Graveyard's Committee that no right of way exists on her land. The author's feel this places a major question mark over the status of the ancient access laneway across her lands and compromises the long established and long-used right to use it which they feel is upsetting to many people and disrespectful to those in the area who have gone before them;
- The people of Meelick and those who have loved ones buried at Moneen need to be fully guaranteed that they can access the burial ground unimpeded;
- The author's have family and/or friends who have family members buried at Moneen and have visited the graveyard over the years.
- The stone laneway has, at all times, been the sole access to the burial ground.

Chief Executive's Response

I wish to thank all of the author's for their submissions. However, the legislation and case law in relation to public rights of way clearly states that:

- There must be actual dedication by the landowner to the public use of the route in question or there must be sufficient evidence to show that such a dedication was intended;
- A public right of way must be opened to the public and not just a class of persons or limited number of the public;
- A public right of way must start in and finish in a public area (i.e. it cannot terminate in private property);
- A public right of way cannot be obtained by stealth, by force or by licence i.e. it must be a route to which the public have a right of access as a right not by way of permission.

Based on the foregoing, and having regard to timeframes at this stage of the County Development Plan process, Clare County Council is unable to include the establishment or preservation of a designated public right of way at Moneen, although public access to Moneen Graveyard is permitted.

Chief Executive's Recommendation

I recommend that Clare County Council **does not preserve** a public right of way at Moneen, Meelick.